IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24553 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DISTRICT PANCHAYAT - Petitioner(s)
Versus
SHABBIRBHAI MOHMMADBHAI MAKRANI - Respondent(s)

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Appearance :
MR RAKESH PATEL for MR DC DAVE for Petitioner(s) : 1,
MR DF HAVEWALA for MR ADIL MEHTA for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 13/03/2007

ORAL JUDGMENT

Heard the learned advocates.

RULE returnable today. Mr.Havewala waives service of rule. With the consent of the learned

advocates, the petition is heard and disposed of today.

The petitioner-District Panchayat, Narmada has preferred the present petition to challenge the judgment and award dated 9th December, 2004 passed by the Labour Court, Bharuch in Reference No.50/1999 and the order dated 15th December, 2005 made on Miscellaneous Application No.1/2005.

Admittedly, the impugned award dated 9th December, 2004 has been made against the petitioner-Panchayat *ex-parte* i.e. though the petitioner-Panchayat was duly served, it did not appear before the Court nor did it contest the Reference. The application for restoration made under Rule 26A of the Industrial Disputes (Gujarat) Rules, 1966 also has been rejected by the Court below.

On the facts and in the circumstances of the case and in the interest of justice, the petition is allowed. The impugned order dated 15th December, 2005 made on Miscellaneous Application No.1/2005 is

quashed and set-aside. The Miscellaneous Application No.1/2005 is allowed. The impugned judgment and award dated 9th December, 2004 passed in Reference No.50/1999 is recalled. The Reference No.50/1999 is restored on the files of the Court below. The Court below will hear and decide the Reference afresh.

This order is made on condition that the petitioner-District Panchayat will, within three weeks from today, pay a cost of Rs.5,000=00 to the respondent-workman. The petitioner-District Panchayat will, within one month from today, pay a sum of Rs.10,000=00 to the respondent-workman towards the back-wages.

In the event, the District Panchayat loses in the Reference and is directed to pay back-wages, the aforesaid sum of Rs.10,000=00 shall be adjusted against the dues of the respondent-workman. In the event, the workman loses in the Reference, he shall not be liable to refund the aforesaid sum of Rs.10,000=00. The petitioner-District Panchayat will file its pleadings within one month from today. Both

the parties to the Reference will cooperate in early hearing of and decision on the Reference.

Rule is made absolute in the above terms.

(Ms. R.M.Doshit, J.)

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